



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-832]

Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2021-2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (China). The period of review (POR) is May 1, 2021, through April 30, 2022. Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. (TMI) and Tianjin Magnesium Metal Co., Ltd. (TMM) (collectively, TMI/TMM) did not have any shipments of subject merchandise during the POR.<sup>1</sup> We invite interested parties to comment on these preliminary results.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1009.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2022, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from China

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<sup>1</sup> In the 2011 and 2012 administrative review, Commerce collapsed both TMI and TMM into a single entity. See *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 94, (January 2, 2014), and accompanying Issues and Decision Memorandum at footnote 1.

for the POR.<sup>2</sup> On May 20, 2022, and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), we received a timely request from US Magnesium LLC (the petitioner) for a review of TMI/TMM.<sup>3</sup> On June 9, 2022, TMI/TMM objected to the request on the basis that it had not sold merchandise in the United States for an extended period of years.<sup>4</sup> On July 14, 2022, in response to the petitioner's request, we initiated an administrative review of the *Order* with respect to TMI/TMM, in accordance with section 751(a) of the Act, and 19 CFR 351.221(c)(1)(i).<sup>5</sup>

### Scope of the *Order*

Merchandise covered by the *Order* is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the *Order*. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium) Magnesium Alloy”<sup>3</sup> and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as “alloy” magnesium).

(2) Products that contain less than 99.95%, but not less than 99.8%, primary magnesium, by weight (generally referred to as “pure” magnesium); and

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<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 25619 (May 2, 2022); see also *Notice of Antidumping Duty Order: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995) (*Order*).

<sup>3</sup> See Petitioner's Letter, “Request For Administrative Review,” dated May 20, 2022.

<sup>4</sup> See TMI/TMM's Letter, “Objection to Request for Review,” dated June 9, 2022.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 42144 (July 14, 2022).

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the *Order* are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.*, length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the *Order* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

#### Preliminary Determination of No Shipments

We received timely submissions from TMI/TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.<sup>6</sup> On July 21, 2022, we requested U.S. Customs and Border Protection (CBP) entry data of subject

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<sup>6</sup> See TMI’s Letter, “No Shipment Certification,” dated July 27, 2022; *see also* TMM’s Letter, “No Shipment Certification,” dated July 27, 2022.

merchandise imported into the United States during the POR, and exported by TMI/TMM.<sup>7</sup> This query returned no entries during the POR.<sup>8</sup> Additionally, on August 9, 2022, Commerce submitted a no-shipments inquiry to CBP with regard to TMI/TMM, to which CBP did not respond with any contrary information by the expiration of the ten-day deadline on August 19, 2022.<sup>9</sup>

Accordingly, and consistent with our practice, we preliminarily determine that TMI/TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.<sup>10</sup>

#### Disclosure and Public Comment

Because Commerce has not calculated weighted-average dumping margins for these preliminary results, there are no calculations to disclose to interested parties.

Interested parties are invited to comment on these preliminary results of the review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the *Federal Register*. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the deadline for filing case briefs.<sup>11</sup> Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each brief: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>12</sup> Executive summaries should be limited to five pages

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<sup>7</sup> See Memorandum, “Release of U.S. Customs and Border Protection Data,” dated August 23, 2022, at Attachment 1.

<sup>8</sup> *Id.* at Attachment 2.

<sup>9</sup> *Id.* at 1 and Attachment 3.

<sup>10</sup> See *Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review 2014-2015*, 81 FR 72567 (October 20, 2016); and the “Assessment Rates” section, *infra*.

<sup>11</sup> See 19 CFR 351.309(d).

<sup>12</sup> See 19 CFR 351.309(c)(2) and (d)(2).

total, including footnotes.<sup>13</sup> Case and rebuttal briefs should be filed using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>14</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the date of publication of this notice in the *Federal Register*. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, by the deadline noted above. If a hearing is requested, Commerce will notify interested parties of the hearing date and time. Requests for a hearing should contain: (1) the requesting party's name, address, and telephone number; (2) the number of individuals from the requesting party's firm that will attend the hearing; and (3) a list of issues the party intends to discuss at the hearing. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

Unless we extend the deadline for the final results of this review, we intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in their briefs, within 120 days of the date of publication of this notice in the *Federal Register*.<sup>16</sup>

#### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.<sup>17</sup> Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to

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<sup>13</sup> *Id.*

<sup>14</sup> See 19 CFR 351.303.

<sup>15</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>16</sup> See section 751(a)(3)(A) of the Act; see also 19 CFR 351.213(h)(1).

<sup>17</sup> See 19 CFR 351.212(b)(1).

liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication). Pursuant to Commerce's practice in NME cases, if we continue to determine in the final results that TMI/TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the China-wide rate.<sup>18</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI/TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the companies; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 111.73 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply

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<sup>18</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: January 27, 2023.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

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